

HOUSE BILL NO. 641

INTRODUCED BY D. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A RIGHT TO A JURY TRIAL IN ANY HEARING DETERMINING THE INVOLUNTARY TERMINATION OF A PARENT-CHILD RELATIONSHIP; AMENDING SECTION 41-3-607, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-607, MCA, is amended to read:

"41-3-607. Petition for termination -- ~~separate hearing~~ -- right to counsel -- ~~no~~ and jury trial. (1)

The termination of a parent-child legal relationship may be considered only after the filing of a petition pursuant to 41-3-422 alleging the factual grounds for termination pursuant to 41-3-609.

(2) If termination of a parent-child legal relationship is ordered, the court may:

(a) transfer permanent legal custody of the child, with the right to consent to the child's adoption, to:

(i) the department;

(ii) a licensed child-placing agency; or

(iii) another individual who has been approved by the department and has received consent for the transfer of custody from the department or agency that has custody of the child; or

(b) transfer permanent legal custody of the child to the department with the right to petition for appointment of a guardian pursuant to 41-3-444.

(3) If the court does not order termination of the parent-child legal relationship, the child's prior legal status remains in effect until further order of the court.

(4) At the time that a petition for termination of a parent-child relationship is filed, parents must be advised of the right to a jury trial and the right to counsel, and counsel. Counsel must be appointed for an indigent party.

(5) A guardian ad litem must be appointed to represent the child's best interests in any hearing determining the involuntary termination of the parent-child legal relationship. The guardian ad litem shall continue to represent the child until the child is returned home or placed in an appropriate permanent placement.

1 If a respondent parent is a minor, a guardian ad litem must be appointed to serve the minor parent in addition
2 to any counsel requested by the parent.

3 ~~(6) There is no right to a jury trial at proceedings held to consider the termination of a parent-child legal~~
4 ~~relationship.~~

5 (6) In any hearing determining the involuntary termination of the parent-child legal relationship, the
6 parties are entitled to a jury trial."

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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10 NEW SECTION. **Section 3. Applicability.** [This act] applies to any hearing determining the involuntary
11 termination of a parent-child legal relationship held after [the effective date of this act].

12 - END -